

FRANKLIN COUNTY AREA PLAN COMMISSION
MEMORANDUM & MINUTES
COMMISSIONERS/COUNCIL PUBLIC MEETING ROOM, 203
November 18, 2020 @ 7PM

THOSE PRESENT: Ruthie Mannix, President; Glenn Bailey, Vice-President; Denny Brown, Robert Braun, and Connie Rosenberger. Also present were Tammy Davis (via zoom), and Cindy C. Orschell.

Pledge of Allegiance

Roll Call

MINUTES of October 14, 2020 – MOTION – Glenn moved to grant the revised minutes (type-o corrections), Ed Derickson 2nd. AIF. MC.

AMENDMENT ON RESIDENTIAL INTERMEDIATE AND COMMERCIAL ALTERNATE ENERGY SYSTEMS; AND DEFINITIONS–
SECTION 80.06.06 – COMMERCIAL & INTERMEDIATE ALTERNATE ENERGY SYSTEMS

- 1) Regulations
 - a) Approval Process:
 - i) Commercial AES – Class 3 conditional use allowed in zoning districts A-2, I-1, I-2
 - ii) Intermediate AES – Class 3 conditional use allowed in all zoning districts except F-P
- 2) Commercial and Intermediate Wind Energy Systems (WES) Siting Requirements

WES system requirements shall not be used to regulate cell tower applications.
Meteorological towers are included in this regulation.

 - a) General Requirements
 - i) Height
 - (1) For all WES there is a height limitation of 200 feet.
 - (2) Tower height is measured from the rotor blade at its highest point to the grade.
 - ii) Horizontal Extension
 - (1) The furthest horizontal extension of a WES (including guy wires) shall not extend into a required setback by the zoning district or be closer than twelve (12) feet to any primary structure (unless supported by the primary structure), or right-of-way easement for any above-ground telephone, electrical transmission or distribution lines.
 - iii) Setback Requirements
 - (1) WES less than thirty-five (35) feet in height shall be setback a minimum of three times the height feet from any non-participating adjoining parcel or adjoining roadway.
 - (2) WES greater than thirty-five (35) feet in height shall have minimum setback distances of 2640 feet from the center of the tower to all non-participating property lines or public road.
 - iv) Safety Design and Installation Standards
 - (1) Equipment Type
 - (a) All turbines shall be constructed of commercially available equipment
 - (b) Meteorological towers may be guyed.
 - (c) Experimental, or proto-type equipment: Experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be approved by the Board of Zoning Appeals per the variance process established by this Ordinance.

- (2) Industry Standards and other Regulations
 - (a) All WES shall conform to applicable industry standards, as well as all local, state and federal regulations. An applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, or an equivalent third party.
- (3) Equipment Installation
 - (a) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - (b) To the greatest practical extent, all electrical wires and utility connections shall be installed underground, except for transformers, inverters, substations and controls. The Board of Zoning Appeals will take into consideration prohibitive costs and site limitations in making their determination.
- (4) Lighting
- (5) All lighting shall follow applicable Federal Aviation Administration regulations.
- (6) All lighting shall be shielded so that no glare extends substantially beyond the boundaries of the project.
- v) Color and Finish
 - (1) All wind turbines, blades and towers that are part of WES shall be white, grey, or another non-obtrusive color.
- vi) Signs and Warnings
 - (1) The following notices shall be clearly visible on all WES facilities:
 - (a) "No Trespassing" signs shall be attached to any perimeter fence.
 - (b) "Danger" signs shall be posted at the height of five (5) feet on WES towers and accessory structures.
 - (c) A sign shall be posted on the tower showing an emergency telephone number.
 - (2) The manual electrical and/or over-speed shutdown disconnect switch(es) shall be clearly labeled.
- vii) Screening
 - (1) No screening required.
- viii) Climb Prevention
 - (1) All WES towers exceeding thirty-five (35) feet shall include features to deter climbing or be protected by anti-climbing devices such as:
 - (i) Fences with locking portals at least six (6) feet in height; or
 - (ii) Anti-climbing devices fifteen (15) feet vertically from the base of the WES tower; or
 - (iii) Locked WES tower doors.
- ix) Blade Clearance
 - (1) The minimum distance between the ground and any protruding blades(s) utilized on all WES, exceeding the thirty-five (35) foot height, shall be twenty-five (25) feet, as measured at the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.
- x) Wetlands and Flood Plains
 - (1) Facility plan shall not be proposed in an area designated by the Department of Natural Resources (DNR) or Franklin County zoning map as a flood plain.
 - (2) Any site designated as isolated wetlands (those wetlands not regulated under the federal Clean Water Act) are Waters of the State and are regulated under Indiana's State Isolated Wetlands law (Indiana Code 13-18-22). Impacts to isolated wetlands require State Isolated Wetland Permits from IDEM.
- xi) Sewer and Water
 - (1) All WES facilities shall comply with the existing septic and well regulations as required by the Franklin County Health Department and/or the State of Indiana Department of Public Health.
- xii) Shadow Flicker

- (1) At no time shall a wind turbine's tower, nacelle, or blades create shadow flicker on any non-participating landowner's property. For the purpose of this section a non-participating landowner shall be defined as a landowner on which a tower does not physically sit.
 - (2) Measurements to assess shadow flicker shall be for all non-participating landowner dwellings located within 0.6 miles or 3,168 feet of a turbine. If shadow flicker will exceed this level then a shadow flicker mitigation plan must be submitted for each affected non-participating dwelling which shall provide for zero shadow flicker for the affected non-participating dwelling.
- xiii) Noise and Vibration
- (1) The noise level of all WES shall be no greater than fifty (50) decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels shall follow all county, state, and federal regulations.
- xiv) Sine Wave Deviations
- (1) Waveform deviations from WES that occur within the electrical environment of a non-participating residence, must conform to acceptable parameters within the Information Technology Industry Council (ITIC) curve at the point of common coupling at the residence.
- xv) Utility Interconnection
- (1) The WES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, Federal and State regulations, amended from time to time.
- xvi) Emergency Response
- (1) WES applicant must cooperate with the local fire department to develop an Emergency Response Plan including access for training.
- xvii) Other Appurtenances
- (1) No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the Board of Zoning Appeals.
- b) Operation and Maintenance
- i) Operator
 - (1) Unless otherwise specified through a contract or agreement, the property owner of record will be presumed to be the responsible party for owning and maintaining the Wind Energy System.
 - ii) Liability Insurance-Commercial WES
 - (1) The owner or operator of any commercial WES shall maintain a current general liability policy covering bodily injury and property damage and shall be required to name Franklin County as an additional insured with dollar amount limits per occurrence in the amount of two million dollars (\$2,000,000) minimum for all WES and an aggregate of five million dollars (\$5,000,000) Proof of liability insurance shall be sent to the Executive Director annually; failure to maintain said insurance shall result in cancellation of the Improvement Location Permit by the Executive Director.
 - iii) Physical Modifications
 - (1) In general, any physical modification to any WES that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Therefore, prior to making any physical modification, the owner or operator shall confer with the Executive Director for approval and Board of Zoning Appeals to determine whether the physical modification requires re-certification.
 - iv) Declaration of Public Nuisance
 - (1) Any WES thereof declared to be unsafe by the Franklin County Executive Director by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the approved Decommissioning Plan.
 - v) Change in Ownership

- (1) It is the responsibility of the owner or operator listed in the application to inform the Executive Director of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.

vi) Easements

- (1) WES easements are not controlled or arbitrated by Franklin County.

c) Decommissioning Plan

- i) Prior to receiving approval under this Ordinance, the Board of Zoning Appeals and the applicant, County Commissioners, and owner and/or operator shall formulate a decommissioning plan approved and signed by the County Commissioners and the applicant, outlining the anticipated means and cost of removing a WES at the end of their serviceable life or upon becoming a discontinued or abandoned use to ensure that the WES is properly decommissioned.

ii) Surety Bond-Commercial WES

- (1) Applicant for a commercial WES shall provide a bond, or other proof of financial responsibility that is of an amount determined by the County Commission to be sufficient to satisfy the decommissioning agreement requirements.
- (2) Other proof of financial responsibility may be:
 - (a) Cash advance to county to be released upon completion of decommissioning plan.
 - (b) An arrangement whereby the county would have access to the funds in an escrow account or other type of account held by a bank, until the completion of the decommissioning plan.
- (3) Bond shall be released upon receipt of a certificate of inspection by the office of the Area Planning Executive Director indicating that the decommissioning plan is complete with no unresolved issues related to the plan.

iii) A decommissioning plan shall include, at a minimum, language to the following:

- (a) Assurance: Must provide written assurance and financial assurance based on cost estimates that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned.
- (b) Cost estimates: The applicant shall provide a contractor cost estimate for demolition and removal of the WES facility which cost estimate shall include any offsetting effects of salvage value. The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning WES and approved by the Board of Zoning Appeals.
- (c) Cost adjustments: Terminology shall be included in the plan that provides cost estimate adjustments derived from the US Bureau of Labor Statistics Consumer Price Indexes (CPI) to protect against inflation.

iv) Discontinuation and Abandonment

- (1) Discontinuation: All WES shall be considered a discontinued use after six (6) months without energy production, unless a plan is developed and submitted to the Executive Director outlining the steps and schedule for returning the WES to service.
- (2) Abandonment by the owner or operator: In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the Executive Director representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within one (1) year of expiration or earlier termination of the project.

(3) Removal

- (a) An applicant's obligations shall include removal of all physical material pertaining to the project improvements within three hundred sixty-five (365) days of the discontinuation or abandonment of the facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements by the owner, (unless otherwise agreed to by the property owner) or by Franklin County at the owner's expense.

- (4) Written Notices
 - (a) Prior to implementation of the existing procedures for the resolution of such default(s), the Executive Director shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).
- (5) Costs Incurred by the County
 - (a) If the County removes a tower and appurtenant facilities, it may sell the salvage to defray the costs of removal. By approval, the permittee or grantor grants a license to Franklin County to enter the property to remove a tower pursuant to the terms of an approved decommissioning plan.
- d) Application Procedures
 - i) Permits and conditional uses shall be applied for and reviewed under the procedures established by this Ordinance.
 - ii) The Area Planning Executive Director shall retain the services of a professional engineer, licensed in Indiana, with expertise in WES to perform a technical review of the development plan prior to submittal to the APC. The costs of services shall be included in the application fees.
 - iii) In addition to the application requirements listed, applications for all WES shall also include the following information:
 - (1) Demonstration of Energy Need: The primary purpose of the production of energy from a WES shall be to serve an energy need. The applicant(s) shall demonstrate how much energy is needed and how the proposed size and number of the WES fulfills this need. Net-metering may be allowed but shall not be the primary intent of the WES.
 - (2) Utility Notification: WES shall not be installed until evidence has been given that the affected utility company has been informed and has agreed to accept energy from potentially interconnected customer-owned generator.
 - iv) Fees
 - (1) All primary voltage WES (including meteorological towers) \$20,000 per tower plus \$100 per Megawatt.
 - (2) The applicant shall also be charged the actual cost of the technical review conducted by an independent representative contracted by the Executive Director.
 - (3) Should the application fail to meet approval, 80% of the application fee shall be refunded, except the actual costs incurred by the county for any and all technical reviews.
- e) Development Plan
 - i) Prior to the issuance of any Improvement Location Permit, the following shall be submitted to and reviewed by the Executive Director, who shall certify that the following are in compliance with all applicable regulations:
 - ii) Decommissioning Plan
 - (1) A Decommissioning Plan and financial assurance given as found in this section.
 - iii) Drainage and Erosion Control Plan
 - (1) The drainage and erosion control plan shall comply with section 80.08.05 Soil Survey-Drainage, Erosion and Sediment Control
 - iv) Utility Plan
 - (1) A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the total WES project shall be submitted to Executive Director. No individual sheet or drawing shall exceed twenty-four inches by thirty-six inches (24" x 36").
 - v) Final Site Layout Plan
 - (1) Provide a copy of the Final Site Layout Plan illustrating the final location of all that is required in the preliminary site layout plan, as approved by the landowner.
 - vi) Road Use and Maintenance Agreement

- (1) A Road Use and Maintenance Agreement (construction and deconstruction) for all oversized loads must be drafted in accord with the Franklin County Highway Department and approved by the Franklin County Commissioners. Financial assurances may be required.

f) Project Description

- i) The following documents shall be provided as part of the application for an Improvement Location Permit.
 - (1) Wind system specifications, including typical manufacturer and model.
 - (2) The manufacturer specifications for the key components of the solar energy system.
 - (3) Certification that layout design, and installation conform to and comply with all applicable industry standards.

3) Commercial and Intermediate Solar Energy Systems (SES) Siting Regulations

a) General Requirements

i) Height-Ground-Mounted SES

- (1) SES shall not exceed overall height of 20 feet.
- (2) The height shall be calculated as the distance from grade to the top of the solar panel at its greatest incline

ii) Height-Building-Mounted SES

- (1) SES may exceed the maximum allowed building height of the building or structure on which it is located by ten (10) feet.
- (2) SES may project off a building façade up to three (3) feet into the required setback.
- (3) The height shall be calculated as the distance from roof to the top of the solar panel at its greatest incline.

iii) Setback (Ground-Mounted Systems Only)

- (1) Setbacks shall be measured from the property line to the nearest piece of above ground solar energy equipment. Setbacks do not apply to underground cabling, fencing, access roads/lanes or ingress/egress roads.
- (2) SES shall be set back a minimum of ninety (140) feet from the center of any adjoining public road.
- (3) SES shall be setback a minimum of fifty (100) feet from any nonparticipating adjoining parcel.
- (4) Should a SES encompass residences or public buildings, an additional fifty (50) feet of setback shall be required on the 3rd and 4th side of the adjacent non-participating property lines.

iv) Area-Commercial Ground-Mounted SES

- (1) Primary voltage systems shall be 5-acre minimum site area, not including access roads.

v) Area-Intermediate Ground-Mounted SES

- (1) Secondary voltage system requires greater than 2000 square feet of panel area.

vi) Safety Design and Installation Standards

(1) Equipment Type

- (a) Experimental, or proto-type equipment: Experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be approved by the Board of Zoning Appeals per the variance process established by this Ordinance.

(2) Industry Standards and other Regulations.

- (a) All SES shall conform to applicable industry standards, as well as all local, state and federal regulations. An applicant shall submit certificate(s) of design compliance that solar equipment manufacturers have obtained from Underwriters Laboratories, or an equivalent third party.

(3) Equipment Installation

- (a) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- (b) To the greatest practical extent, all electrical wires and utility connections shall be installed underground, except for transformers, inverters, substations and controls. The Board of Zoning

Appeals will take into consideration prohibitive costs and site limitations in making their determination.

(4) Lighting

- (a) All lighting shall be shielded so that no glare extends substantially beyond the boundaries of the project.

vii) Color and Finish

- (1) Finish must be made to minimize glare to surrounding properties.

viii) Security

- (1) For ground-mounted SES, perimeter fencing shall be a six (6) foot tall chain link fence around the perimeter of the site.

ix) Screening (Ground-Mounted Systems Only)

- (1) Level 2 screening per 80.08.10 if located within 400 feet of non-participating landowner or public right of way.

x) Wetlands and Flood Plains

- (1) Facility plan shall not be proposed in an area designated by the Department of Natural Resources (DNR) or Franklin County zoning map as a flood plain.
- (2) Any site designated as isolated wetlands (those wetlands not regulated under the federal Clean Water Act) are Waters of the State and are regulated under Indiana's State Isolated Wetlands law (Indiana Code 13-18-22). Impacts to isolated wetlands require State Isolated Wetland Permits from IDEM.

xi) Sewer and Water

- (1) All SES facilities shall comply with the existing septic and well regulations as required by the Franklin County Health Department and/or the State of Indiana Department of Public Health.

xii) Noise and Vibration

- (1) The noise level of all WES shall be no greater than fifty (50) decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels shall follow all county, state, and federal regulations.

xiii) Sine Wave Deviations

- (1) Waveform deviations from a SES that occur within the electrical environment of a non-participating residence, must conform to acceptable parameters within the Information Technology Industry Council (ITIC) curve at the point of common coupling at the residence.

xiv) Utility Interconnection

- (1) The SES, if primary voltage is interconnected to a utility system, it shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, Federal and state regulations, amended from time to time.

b) Operation and Maintenance

i) Operator

- (1) Unless otherwise specified through a contract or agreement, the property owner of record will be presumed to be the responsible party for owning and maintaining the Solar Energy System.

ii) Liability Insurance-Commercial SES

- (1) The owner or operator of any commercial SES shall maintain a current general liability policy covering bodily injury and property damage and shall be required to name Franklin County as an additional insured with dollar amount limits per occurrence in the amount of two million dollars (\$2,000,000) minimum for all WES and an aggregate of five million dollars (\$5,000,000) Proof of liability insurance shall be sent to the Executive Director annually; failure to maintain said insurance shall result in cancellation of the Improvement Location Permit by the Executive Director.

iii) Physical Modifications

- (1) In general, any physical modification to any SES that alters the mechanical load, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification.

Therefore, prior to making any physical modification, the owner or operator shall confer with the Executive Director and Board of Zoning Appeals to determine whether the physical modification requires re-certification.

iv) Declaration of Public Nuisance

- (1) Any SES thereof declared to be unsafe by the Franklin County Executive Director by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the approved Decommissioning Plan.

v) Shadows

- (1) No solar apparatus shall cast an appreciable shadow on surrounding properties solar production facilities.

vi) Change in Ownership - It is the responsibility of the owner or operator listed in the application to inform the Executive Director of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.

vii) Easements

- (1) Solar easements are not controlled or arbitrated by Franklin County

c) Decommissioning Plan

i) Prior to receiving approval under this Ordinance, the Board of Zoning Appeals and the applicant, County Commissioners, and owner and/or operator shall formulate a decommissioning plan approved and signed by the County Commissioners and the applicant, outlining the anticipated means and cost of removing a SES at the end of their serviceable life or upon becoming a discontinued or abandoned use to ensure that the SES is properly decommissioned.

ii) Surety Bond-Commercial SES

- (1) Applicant for a commercial SES shall provide a bond, or other proof of financial responsibility that is of an amount determined by the County Commission to be sufficient to satisfy the decommissioning agreement requirements.
- (2) Other proof of financial responsibility may be:
 - (a) Cash advance to county to be released upon completion of decommissioning plan.
 - (b) An arrangement whereby the county would have access to the funds in an escrow account or other type of account held by a bank, until the completion of the decommissioning plan.
- (3) Bond shall be released upon receipt of a certificate of inspection by the office of the Area Planning Executive Director indicating that the decommissioning plan is complete with no unresolved issues related to the plan.

iii) A decommissioning plan shall include, at a minimum, language to the following:

- (1) Assurance: Written assurance that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned.
- (2) Cost estimates: The applicant shall provide a contractor cost estimate for demolition and removal of the SES facility which cost estimate shall include any offsetting effects of salvage value. The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning SES.
- (3) Cost adjustments: Terminology shall be included in the plan that provides cost estimate adjustments derived from the US Bureau of Labor Statistics Consumer Price Indexes (CPI) to protect against inflation.

iv) Discontinuation and Abandonment

- (1) Discontinuation: All SES shall be considered a discontinued use after six (6) months without energy production, unless a plan is developed and submitted to the Executive Director outlining the steps and schedule for returning the SES to service.
- (2) Abandonment by the owner or operator: In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the Executive Director representing that all easements for solar collection shall contain terms that provide financial assurance, including access to the salvage value of

the equipment, for the property owners to ensure that facilities are properly decommissioned within one (1) year of expiration or earlier termination of the project.

v) Removal

- (1) An applicant's obligations shall include removal of all physical material pertaining to the project improvements to no less than a depth of six (6) feet below ground level within three hundred sixty-five (365) days of the discontinuation or abandonment of the facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements by the owner, (unless otherwise agreed to by the property owner) or by Franklin County at the owner's expense.

vi) Written Notices

- (1) Prior to implementation of the existing procedures for the resolution of such default(s), the Executive Director shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).

vii) Costs Incurred by the County

- (1) If the County removes a solar plant and appurtenant facilities, it may sell the salvage to defray the costs of removal. By approval, the permittee or grantor grants a license to Franklin County to enter the property to remove the solar plant pursuant to the terms of an approved decommissioning plan.

d) Application Procedures

- i) Permits and conditional uses shall be applied for and reviewed under the procedures established by this Ordinance.
- ii) The Area Planning Executive Director shall retain the services of a professional engineer, licensed in Indiana, with expertise in SES to perform a technical review of the development plan prior to submittal to the APC. The costs of services shall be included in the application fee.
- iii) In addition to the application requirements listed, applications for all SES shall also include the following information:
 - (1) Demonstration of Energy Need: The primary purpose of the production of energy from a SES shall be to serve an energy need. The applicant(s) shall demonstrate how much energy is needed and how the proposed size and number of the SES fulfills this need. Net-metering may be allowed but shall not be the primary intent of the SES.
 - (2) Utility Notification: SES shall not be installed until evidence has been given that the affected utility company has been informed and has agreed to accept energy from potentially interconnected customer-owned generator. Intermediate (secondary voltage connected) systems shall be exempt from this requirement

iv) Fees

- (1) All commercial primary voltage SES \$20,000 plus \$100 per Megawatt.
- (2) The applicant shall also be charged the actual cost of the technical review conducted by an independent representative contracted by the Executive Director.
- (3) Should the application fail to meet approval, 80% of the application fee shall be refunded, except the actual costs incurred by the county for any and all technical reviews.

e) Development Plan

- i) Prior to the issuance of any Improvement Location Permit for primary connected SES, the following shall be submitted to and reviewed by the Executive Director, who shall certify that the following are in compliance with all applicable regulations:
- ii) Decommissioning Plan
 - (1) A Decommissioning Plan as prescribed in this section.
- iii) Drainage and Erosion Control Plan
 - (1) The drainage and erosion control plan shall comply with section 80.08.05 Soil Survey-Drainage, Erosion and Sediment Control

- iv) Utility Plan
 - (1) A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the total SES project shall be submitted to Executive Director.
- v) Final Site Layout Plan
 - (1) Provide a copy of the Final Site Layout Plan illustrating the final location of all that is required in the preliminary site layout plan, as approved by the landowner.
- vi) Road Use and Maintenance Agreement
 - (1) A Road Use and Maintenance Agreement (construction and deconstruction) for all oversized loads must be drafted in accord with the Franklin County Highway Department and approved by the Franklin County Commissioners. Financial assurances may be required.
- f) Project Description
 - i) The following documents shall be provided as part of the application for an Improvement Location Permit.
 - (1) Solar system specifications, including typical manufacturer and model.
 - (2) The manufacturer specifications for the key components of the solar energy system.
 - (3) Certification that layout design, and installation conform to and comply with all applicable industry standards.

SECTION 80.06.06 – RESIDENTIAL ALTERNATE ENERGY SYSTEMS

- 1) Regulations
 - a) Approval Process: Class 2, Permitted by Executive Decision – Class 3 – Town of Brookville, Cedar Grove, Mt Carmel, and Oldenburg.
 - b) Zoning Districts Permitted: All zones except F-P
- 2) Wind Energy System Regulations
 - g) General Requirements
 - i) Height
 - (1) Maximum height of thirty-five (35) feet.
 - (2) Tower height is measured from the rotor blade at its highest point to the grade.
 - ii) Setback
 - (1) Tower placement shall meet the required setbacks of the district in which they are located but shall be setback no less than 1 ½ times the height of a tower.
 - iii) Siting
 - (1) Tower shall not be located over a septic field unless approval is granted from the Franklin County Health Department.
 - (2) WES shall only be permitted in the rear and side yard, with the following exception: The Zoning Administrator may authorize the installation of a tower in front of the principal building, if the applicant demonstrates that, due to wind access limitations, no location exists on the property other than the front yard where the wind turbine can perform effectively.
 - (3) WES shall not be placed within any legal easement or right-of-way location except if permission is granted in writing by the owner of right-of-way or easement. Nor should it be placed within the legal easement of any Franklin County drain except if permission is granted in writing by the Franklin County Surveyor.
 - iv) Screening
 - (1) None required.
 - v) Lighting
 - (1) Lighting may require shielding so that no glare extends substantially beyond any structure.
 - vi) Shadow Flicker
 - (1) At no time shall a wind turbine's tower, nacelle, or blades create shadow flicker on any non-participating landowner's property.

vii) Noise and Vibration

- (1) The noise level of all WES shall be no greater than thirty-two (32) decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels shall follow all county, state, and federal regulations.

viii) Utility Interconnection

- (1) The WES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, Federal and State regulations.

h) Site Plan

i) Utility Plan

- (1) A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the total WES project shall be submitted to Executive Director. No individual sheet or drawing shall exceed twenty-four inches by thirty-six inches (24" x 36").

ii) Final Site Layout

- (1) Provide a copy of the Final Site Layout illustrating the final location of all that is required.

i) Project Description

- i) The following documents shall be provided as part of the application for an Improvement Location Permit.

- (1) Wind system specifications, including typical manufacturer and model.
- (2) The manufacturer specifications for the key components of the wind turbine energy system.
- (3) Certification that layout design, and installation conform to and comply with all applicable industry standards.

4) Ground-Mounted Solar Energy System Regulations

a) General Requirements

i) Height

- (1) SES shall not be taller than twenty (20) feet above grade.
- (2) The height of the SES shall be calculated as the distance from grade to the top of the solar panel at its greatest incline.

ii) Setbacks

- (1) Setbacks shall be measured from the property line to the nearest piece of above ground solar energy equipment.
- (2) SES shall meet the required setbacks of the district in which they are located but shall be setback no less than 1 ½ times the height of a ground-mounted structure.

iii) Area

- (1) Less than or equal 2,000 square feet in panel area.

iv) Siting

- (1) SES shall not be located over a septic field unless approval is granted from the Franklin County Health Department.
- (2) SES shall only be permitted in the rear and side yard, with the following exception: The BZA may authorize the installation of a ground mounted SES in front of the principal building, if the applicant demonstrates that, due to solar access limitations, no location exists on the property other than the front yard where the solar panel can perform effectively. In such cases the SES must meet the front yard setback of the zoning district in which it is to be located.

- (3) SES shall not be placed within any legal easement or right-of-way location except if permission is granted in writing by the owner of right-of-way or easement. Nor should it be placed within the legal easement of any Franklin County drain except if permission is granted in writing by the Franklin County Surveyor.
 - v) Screening
 - (1) SES shall meet the required screening of the district in which they are located, but allowances shall be made to ensure screening does not affect the efficiency of the system by shading the solar panels.
 - vi) Lighting
 - (1) Lighting may require shielding so that no glare extends substantially beyond any structure.
 - vii) Noise and Vibration
 - (1) The noise level of all SES shall be no greater than thirty-two (32) decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels shall follow all county, state, and federal regulations
 - viii) Sine Wave Deviation
 - (1) Waveform deviations from SES that occur within the electrical environment of a non-participating residence, must conform to acceptable parameters within the Information Technology Industry Council (ITIC) curve at the point of common coupling at the residence.
 - ix) Utility Interconnection
 - (1) The WES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, Federal and State regulations.
 - b) Site Plan
 - i) Utility Plan
 - (1) A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the total SES project shall be submitted to Executive Director. No individual sheet or drawing shall exceed twenty-four inches by thirty-six inches (24" x 36").
 - ii) Final Site Layout Plan
 - (1) Provide a copy of the Final Site Layout Plan illustrating the final location of all that is required.
 - c) Project Description
 - i) The following documents shall be provided as part of the application for an Improvement Location Permit.
 - (1) Solar system specifications, including typical manufacturer and model.
 - (2) The manufacturer specifications for the key components of the solar energy system.
 - (3) Certification that layout design, and installation conform to and comply with all applicable industry standards.
- 3) Building-Mounted Solar Energy System Regulations
- a) General Requirements
 - i) Height
 - (1) The height of the SES shall be calculated as the distance from roof to the top of the solar panel at its greatest incline.
 - (2) SES may exceed the maximum allowed building height of the building or structure on which it is located by five (5) feet in residential districts and ten (10) feet in all other districts.
 - (3) SES may project off a building façade up to three (3) feet into the required setback.

- (4) SES may be installed on legally established nonconforming buildings as long as the installation of the SES does not increase the nonconformity, except for the allowances in height and projection as outlined above.
- ii) Safety
 - (1) SES shall be located in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, and provide for smoke ventilation opportunities.
 - (2) SES shall be located in accordance with the Indiana Fire Code.
- iii) Noise and Vibration
 - (1) The noise level of SES shall be no greater than thirty-two (32) decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels shall follow all county, state, and federal regulations.
- iv) Sine Wave Deviations
 - (1) Waveform deviations from SES that occur within the electrical environment of a non-participating residence, must conform to acceptable parameters within the Information Technology Industry Council (ITIC) curve at the point of common coupling at the residence.
- v) Utility Interconnection
 - (1) The WES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, Federal and State regulations.
- b) Site Plan
 - i) Utility Plan
 - (1) A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the total SES project shall be submitted to Executive Director. No individual sheet or drawing shall exceed twenty-four inches by thirty-six inches (24" x 36").
 - ii) Final Site Layout
 - (1) Provide a copy of the Final Site Layout illustrating the final location of all that is required.
- c) Project Description
 - i) The following documents shall be provided as part of the application for an Improvement Location Permit.
 - (1) Solar system specifications, including typical manufacturer and model.
 - (2) The manufacturer specifications for the key components of the solar energy system.
 - (3) Certification that layout design, and installation conform to and comply with all applicable industry standards.

80.13. G Alternate Energy System Definitions

For purposes of this code, certain terms and definitions apply to section 80.06.06, Alternate Energy Systems (AES) as follows:

System Definitions

Alternate Energy Systems (AES): The collection of Wind Energy Systems (WES) or Solar Energy Systems (SES) as specified in the siting approval application.

- a) Commercial AES: An area of land or other area used by a property owner and/or corporate entity for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical

or thermal power, primarily or solely for offsite utility grid use, and consisting of one or more free-standing or ground-mounted, solar arrays or modules or wind related equipment, intended to primarily reduce offsite consumption of utility power and/or fuels.

- b) Intermediate AES: An alternate energy system that is generally smaller than a commercial AES and the primary purpose is to collect solar or wind energy for purpose of supplying energy to the owners, such as a business, school, or factory, and not connected at primary voltages.
- c) Residential AES: A small solar or wind energy system whose general purpose is to provide energy to a residential or small business user such as a farmer or homeowners, and not connected to primary voltages.

Wind Energy System (WES): All necessary devices that together convert wind energy into electricity, including but not limited to the rotor, nacelle, generator, WES Tower, electrical components, WES foundation, transformer, electrical cabling for the WES Tower to the Substation(s), switching stations, meteorological towers, communications facilities, and other required facilities and equipment, as related to the WES project.

- a) WES Tower: The support structure to which the nacelle and rotor are attached, free standing or guyed structure that supports a wind turbine generator.
- b) WES Tower Height: The distance from the rotor blade at its highest point to the top surface of the WES foundation.

Solar Energy System – (SES): A system that converts solar radiation into electricity via photovoltaic cells. Reference IAC IC 36-7-2-8 Solar energy systems; ordinances; reasonable restrictions.

- c) Ground-Mounted Solar: A solar energy system that is structurally mounted to the ground.
 - d) Building-Mounted Solar: A solar energy system that is structurally mounted to a building or Energy System structure.
- A Building-mounted SES can be mounted on the roof or façade of a building or structure.

Related Terminology

Applicant: The entity or person who submits to the Executive Director an application for the siting of any AES or thereafter operates or owns an AES.

Financial Assurance: Financial assurance means cash escrow with the County.

Improvement Location Permit Fee: Fees associated with the approval and issuance of a permit obtained by the Executive Director or Town Board.

Meteorological Towers: Towers which gather wind energy data to determine project feasibility, and not connected to any electrical power grid.

Net Metering: An AES incentive that requires your utility to purchase excess electricity that your AES produces at the full retail value of electricity. In other words, when your AES produce more electricity than your home needs, that excess power will be sent to the power grid.

Non-Participating Landowner - A landowner on which a structure does not physically sit.

Operator: The entity responsible for the day-to-day operation or maintenance of the AES, including any third-party subcontractors.

Owner: The entity or entities with an equity interest in the AES, including their respective successors and assigns. Owner does not mean (i) the property owner from who the land is leased for locating the AES (unless the property owner has an equity interest in the AES); or (ii) any person holding a security interest in the AES solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the AES within one year of such event.

Professional Engineer: A qualified individual who is licensed as a professional engineer in any state in the United States and approved by the APC Executive Director.

Primary Structure: For each property, the structure that one (1) or more persons occupy the majority of the time on that property for either business or personal reasons. Primary Structure includes, but is not limited to, structures such as residences, commercial buildings, hospitals, day care facilities, hunting sheds, storage sheds, pool houses, unattached garages and barns.

Primary Voltage: A.C voltage which power is distributed or transmitted by a public electrical utility (i.e. starting at 2400 volts and up).

Secondary Voltage: Low voltage A.C. supplying one ultimate user (i.e. Under 600 volts).

Solar Unconditioned Output: D.C. output not converted to A.C.

Ruthie Mannix – a 3-person group got together and proposed this document it was presented to Commissioners some revisions were made and we are confirming the language, and a recommendation will be sent back to the Commissioners. The recommendation will not happen until after then public hearing. MOTION – Glenn Bailey moved to accept and acknowledge this proposal from the Commissioners, Robert Braun 2nd. AIF. MC.

Ed Derickson – wants to see is health, safety and welfare addressed for all citizens that may be impacted by an alternate energy system.

Ruthie Mannix – we have proposed 3 different types of alternate energy systems; intermediate, residential, commercial and definitions. She questions fees for commercial, David Mannix - \$20,000.00. Cindy Orschell – Class 2 filing fee is \$150.00.

Ed Derickson – questioned alternate energy systems definitions, c). David Mannix – we could add “could be stand along or primary connected”, or we could just add “may”. It was consensus of the board to add “may”. Ruthie Mannix – make a motion for each revision? Tammy Davis- no, but we can add it to the recommendation.

Ed Derickson - questioned residential section has height restriction of 35’, feels 35’ is not adequate. David Mannix – there were 3 other counties that and 35’ as a maximum. It was general consensus of board to keep the 35’ as maximum height.

Denny Brown -decommission section for residential? David Mannix – there is no decommission section for residential because it’s the landowner, their responsibility.

Ed Derickson – questions maintenance on ground units. David Mannix, - no required maintenance on ground units.

Ruthie Mannix – intermediate and commercial systems are similar. David Mannix – yes.

Ed Derickson – for a Class 3 for commercial, he wants A-2 removed as zones permitted. David Mannix – he knew there was a concern on not having it permitted in A-1, but if you removed A-2 there's no other place to put it. And there was no discussion on A-2, and it's not part of the exclusion. Ruthie Mannix – are you taking about removing it from intermediate and commercial. Ed Derickson- yes. Ruthie Mannix – expressed concern for a rezone goes with the land, its permanent. Denny Brown – So it would be a A-2 to I1 or I2 rezone? Ruthie Mannix – questioned Grant Reeves. Grant Reeves – yes, if you are going to require a rezone every time, there is no case law on that that he is aware of.

Tom Wilson – questioned property taxes. Grant Reeves – you are not taxed on the zoning designation, it's the use.

Ruthie Mannix – major change from what the Commissioners sent to us. Robert Braun – questions an overlaying district for solar only. Grant Reeves – the property would be both districts, they would have to meet certain requirements for the solar district. He is not aware of any county that has it that way.

Ruthie Mannix – we could make the recommendation to the Commissioners. Tammy Davis – ask for public comment first. Ruthie Mannix – we are just discussing it.

Ed Derickson – remove A-2 from Commercial and Intermediate, Ruthie Mannix, - is uncomfortable with a rezone, this is a major change should we take a vote? Tammy Davis – yes.

Ruthie Mannix – asks Tammy Davis on taking public input. Tammy Davis – that would be up to board.

Tom Wilson – A-1 was eliminated? David Mannix – yes, in commercial and intermediate. Sara Duffy - asks if you are thinking of the future of having small spot zones and being used for industry? Ruthie Mannix – yes, that is my concern because it goes with the land. MOTION - Ed Derickson moved to remove A-2 from the zones permitted in Commercial, Denny Brown 2nd. Motion passed with Ruthie Mannix and Robert Braun opposed. (4-2 vote) MC.

Ed Derickson – questions 3) Commercial and Intermediate Solar Energy Systems (SES) Siting Regulation, a) General Requirements, iii) Setback (ground-mounted systems only), (2); the 140 feet isn't adequate, and (3) the 100 feet isn't adequate either. He feels the 140 feet should be 200, and 100 feet should be 150. Also, there should be a 25' setback from the fence for maintenance and being moved to a length of 10", add 3 strands of barbed wire on 3, viii), (1). Ruthie Mannix – is ok with setbacks, and understands the barbed wired additional 60' plus fence is a lot. Denny Brown- this would be a policing issue.

Ed Derickson - no setbacks on fencing? David Mannix – Level 2 landscape plans on Section 80.08.10. Ed Derickson – asks for a 25' minimum setback. David Mannix – no setback change on 2) and 3).

Ed Derickson - questioned 3) Commercial and Intermediate Solar Energy Systems (SES) Sitting Regulations a) General Requirements, xiii), (1). David Mannix – this means you cannot interfere with neighbor's power.

Denny Brown – asked about the ½ mile setback. Grant Reeves – that's what we started with; we can revisit it.

Ruthie Mannix – questions fees? David Mannix – Commissioners wanted \$20,000 and \$100 per watt. And we don't have anything on Intermediate. Ruthie Mannix – questions if intermediate will have the technical review? David Mannix – yes. Ed Derickson- questioned the difference on Commercial and Intermediate? David Mannix – Intermediate is smaller, and we don't need to change the definition of Intermediate AES; and Residential AES (Ex: and "may" connected at primary

voltages). We need to figure the fees for intermediate, to include cost for technical review; he is not sure, we could get some quotes, or use language such as “charges inquired” that would leave it open.

Ruthie Mannix – questions the filing fee on a Class 3. Cindy Orschell - \$300.00 for a Class 3. Robert Braun – get quote first? David Mannix – should their application fail, the fees can be refunded (unused funds). He can draft something up.

Ed Derickson – questioned e) Development Plan, iii) Drainage Plan; Add “(2) Water Run Off, (a all drain fields shall be maintained as originally designed; and (b) no drain field shall be disturbed or impede on non-participating landowners.”

Ruthie Mannix – so we are looking for a motion to send back to the Commissioners with the revisions, favorable, unfavorable or no recommendation. The application fee for a class 3 conditional use is \$300.00. Robert Braun – asks about fee for the intermediate alternate energy systems, \$1000.00. It was consensus of the board for \$1000,00.

Ruthie Mannix – asks about a technical review for Intermediate Alternate Energy Systems, David Mannix – yes, there is technical review for Intermediate.

MOTION – Robert Braun moved to send a favorable recommendation to the County Commissioners with the following revisions: Section 80.06.06 Conditional Uses Commercial & Intermediate Alternate Energy Systems; 1) Regulations, a), i) Commercial AES – Class 3 conditional use allowed in zoning districts: remove” A-2”.

Section 80.06.06 Conditional Uses Commercial & Intermediate Alternate Energy Systems; 3), a), viii), (1) add “with three (3) strands of barbed wire on top of fence”.

Section 80.06.06 Conditional Uses Commercial & Intermediate Alternate Energy Systems; 3), d) Application Procedures, iv) Fees (1) Add “Intermediate Alternate Energy systems a fee of \$1,000.00.”

Section 80.06.06 Conditional Uses Commercial & Intermediate Alternate Energy systems; 3) Commercial and Intermediate Solar Energy Systems (SES) Siting Regulations; e) Development Plan, iii) Drainage Plan; Add “(2) Water Run Off, (a all drain fields shall be maintained as originally designed; and (b) no drain field shall be disturbed or impede on non-participating landowners.”

Glenn Bailey 2nd. MC. AIF.

SPLITTING LOT IN OLDENBURG @ 22100 Water Street – Cindy Orschell – Rob Seig, Surveyor is wanting to split a lot for a customer in Oldenburg Corporation, with 50’ feet of frontage. The lot is zoned Residential-1 and the minimum frontage requirement is 100 feet. Also, Subdivisions, Section 80.10.01 Definition, Section 10.10, 2. States: Two (2) or more contiguous lots, each of 2 acres or less, and both with their own access and own frontage on a public road. Rob Seig – the lot will be 63’ wide, and states the lots were previous platted in 1865 at 50’ wide. Ruthie Mannix – apply for a variance.

COMPLAINT/VIOLATION REPORT –

Derryl Cregar @ 9165 Cummins Road – Cindy Orschell - the board was waiting on the status of the Commissioners vacating the road, the Commissioners denied vacating Cummins Road on 11/17/2020.

Robert Barngrover @ 27137 State Road 244 – Cindy Orschell – a site visit on 11/18/2020, and the structure was still on the property. It was general consensus of the board for Tammy Davis to send a letter.

Daniel & James Davis @ 27129 State Road 244 - Cindy Orschell – court date set for December 7 @ 10 AM, site inspection on 11/18/2020 appears all item have been removed from the setback.

Randy & Bridget Smith @ 6014 St. Peter's Road – Cindy Orschell – site visit on 11/18/2020, still in violation on change. Could we have Tammy Davis send a letter, it was general consensus to have Tammy send letter.

Thomas Whipple @ 19151 US 52 - Cindy Orschell – Tammy Davis was trying to get service; he was served on November 9th.

Andrew Matthews @ 16195 US 52 – Cindy Orschell – Tammy Davis was trying to get service; he was served on November 9th.

D&J Homes @ 8089 Silver Creek Road – Cindy Orschell – Letter was sent on 10/6/2020, and site inspection was done on 11/18/2020 and no improvement. Can we have Tammy Davis send him a letter? It was general consensus of the board to have Tammy send a letter.

Stacy & Allison Merrell @ 4213 US 52 – Cindy Orschell - letter was mailed on 8/12/2020, and 10/14/2020 and Stacy Merrell contacted the office and said he enclosed the carport, but he wasn't living in it. The neighbor that made the complaint is adamant that he is living in the camper. What would be the next step? How to investigate further. Another letter was sent on 11/17/2020 asking to do a site visit. Cindy Orschell will report back to the board in December.

Steven T. Peters & Paula Godsey @ 26095 US 52 – Cindy Orschell - spoke with Surveyor, Andy Murry on 11/17/2002, and it is on his list.

Town of Brookville @ Town Park youth football concession stand – Cindy Orschell – received an email from Tim Ripperger, Town Administrator, stating “the state does not have a design release on the original building so they were requesting some information about the existing building before they make a determination on the added lean-to”. Robert Braun – how long as this been going on. Cindy Orschell- almost 1 year. It was general consensus to have Tammy Davis, or Grant Reeves send a letter.

ADJOURNMENT – MOTION – Glenn Bailey moved to adjourn the meeting, Robert Braun 2nd. MC. AIF. Meeting adjourned at 9:50 PM.